

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RASHIDA MANUEL,
Plaintiff,

vs.

UNIVERSITY OF CINCINNATI,
Defendant.

Case No. 1:19-cv-616
McFarland, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

This matter is before the Court on defendant's motions to dismiss the original and first amended complaints. (Docs. 4, 8, 11). On November 21, 2019, plaintiff filed her second amended complaint, which omits the claims to which defendant's motions to dismiss are directed. (Doc. 12). Defendant has filed an answer to the second amended complaint. (Doc. 13).

In view of the filing of an amended complaint, which supersedes the original complaint, *see Calhoun v. Bergh*, 769 F.3d 409, 410 (6th Cir. 2014), defendant's motions to dismiss should be **DENIED** as moot. *See Clark v. Johnston*, 413 F. App'x 804, 811 (6th Cir. 2011) ("When a pleading is amended pursuant to Federal Rule of Civil Procedure 15(a), the amended pleading supersedes the original pleading, i.e., 'the original pleading no longer performs any function in the case and any subsequent motion made by an opposing party should be directed at the amended pleading[.]'" (quoting 6 Charles Alan Wright & Arthur R. Miller, *FEDERAL PRACTICE AND PROCEDURE* § 1476 (3rd ed. 2010)).

IT IS SO RECOMMENDED.

Date

1/13/20


Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).